

**5/13/77 [2]**

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THE WHITE HOUSE  
WASHINGTON

May 13, 1977

Bob Lipshutz -

The attached letter to Reverend Steinbruck was signed by the President and the original is returned to you as requested to coordinate distribution with Jody Powell.

Rick Hutcheson

For the Record:

Bob Lipshutz's office informed us that the original letter to Reverend John Steinbruck was hand-delivered.


Copies sent to Rabbi Marc Tanenbaum  
David Broder

THE PRESIDENT HAS SEEN.

THE WHITE HOUSE  
WASHINGTON

May 12, 1977

MEMORANDUM FOR THE PRESIDENT

FROM: ROBERT LIPSHUTZ 

Thank you for your response regarding the deicide matter.

Enclosed is the letter which you approved, addressed to Reverend Steinbruck. Jody and I agree that the best way to disseminate your views is by a response to this Lutheran minister. Jody will distribute your letter in the proper press channels also.

THE WHITE HOUSE

WASHINGTON

May 12, 1977

To Reverend John F. Steinbruck

Several weeks ago, I conducted a Bible study class during which the subject of the role of the Jewish people in the Crucifixion of Christ was discussed. A number of newspaper reports have appeared about my comments which have led to some questions about my views on this subject. I am glad to have this opportunity to set forth my personal position and to clarify any misunderstandings which may have resulted from these incomplete accounts of my convictions:

The Christian religion, according to my understanding, holds that Jesus of Nazareth, who was a Jew, gave His life to redeem the sins of humanity. The Gospels declare that His death was foreordained and without that death and the resurrection which followed it Christians would not be saved in Christ. Yet the Crucifixion required human instruments.

Among these were Judas, who was a Christian disciple, Caiaphas, who was a Jewish priest appointed by the Roman authorities, and Pilate, a gentile, who actually condemned Jesus to death.

In accordance with the Gospels, I know that Jesus forgave the human instruments of His death but I am also aware that the Jewish people were for many centuries falsely charged with collective responsibility for the death of Jesus, and were persecuted terribly for that unjust accusation which has been exploited as a basis and rationalization for anti-Semitism.

I know and am personally gratified by the fact that the highest authorities of the major Christian Churches, Protestant, Roman Catholic and Greek Orthodox, have totally and decisively rejected the charge that the Jewish people as a whole were then or are now responsible for the death of Christ. My own denomination, the Southern Baptist Convention, adopted an official resolution on June 7, 1972, declaring "anti-Semitism as un-Christian" and as being opposed to any and all forms of it. Further, the Baptist Churches have resolved that "we covenant to work positively to replace all anti-Semitic bias in the Christian attitude and practices with love for Jews, who along with all other men, are equally beloved of God."

To that, I can only say "amen" with all my heart.

A handwritten signature in cursive script, reading "Jimmy Carter". The signature is written in dark ink and is centered on the page.

Reverend John F. Steinbruck  
Luther Place Memorial Church  
Fourteenth and N Streets, N. W.  
Washington, D. C. 20005

## THE WHITE HOUSE

WASHINGTON

AND REPLYING HAS BEEN.

INFORMATION

13 May 1977

TO: THE PRESIDENT  
FROM: RICK HUTCHESON  
SUBJECT: Summary of Memos Not Submitted

1. EVAN DOBELLE MEMO responding to President's request to "confirm the need for about 30 people working at Blair House."

Evan reports that Blair House has 10 salaried employees; and that during "large visits" additional personnel are hired at a weekly or per diem rate.

Other measures taken by Evan to reduce costs:

- consistently billing Embassies for functions held at Blair House during the visit of a head of state which necessitate additional staff, food, etc.
- reducing the number and size of functions held
- attempting to project more accurately the needs of guests, to avoid preparing too much food, etc.
- attempting to reduce the hours worked and staff size for permanent and part-time personnel
- scheduling state visits only on weekdays, hence reducing overtime wages

2. MARK SIEGEL MEMO informing you that, in contrast to Sen. McGovern, Sen. Culver recently made an extremely favorable speech about your first 100 days, before Iowa newspaper editors, on May 6. Culver listed the large volume of programs proposed by the Administration, praised your tackling the energy problem, and praised the "open style and moral content" of your foreign policy.

3. JAY SOLOMON LETTER informing you that GSA is implementing a three-year, \$17 million program to ensure that all GSA-controlled public buildings will be accessible, in all essential respects, to the physically handicapped by the end of FY 1979. (You may wish to keep this in mind if you attend the White House Conference for the Handicapped later this month.)

THE CHIEF OF PROTOCOL  
DEPARTMENT OF STATE  
WASHINGTON

May 12, 1977

MEMORANDUM FOR THE PRESIDENT

Subject: Blair House.

It has been brought to my attention that before I was Chief of Protocol (10 February 1977) a request was made by you to "confirm the need" for "about 30 people working at Blair House".

This evidently has never been satisfactorily documented for you or gone into further, as to reduction of costs from a conversation I have had with Rick Hutchinson. I shall do so now as I have not before been aware of this request.

- I. There are 10 people who work at Blair House as salaried employees. When a large visit occurs additional personnel are hired at a weekly or per diem charge from an experienced pool of private personnel.
- II. In order to reduce costs the following steps have been taken by me:
  - a - The consistent application of the practice of billing the Embassy for any function held at the house during the visit of a head of state which necessitates additional staff, equipment and foodstuffs rather than having the Department of State absorb these costs as a part of the visit. The application of this billing procedure during the visits of the President of the European Economic Community, the King of Jordan, and the Prime Minister of Spain will result in a savings of approximately \$4,000.00

- b. - A reduction in the number and size of the various functions held at the house by the visiting head of state or government. The scheduling of numerous meetings and interviews (Press Conferences) requires increases in the size of the staff on every level from the housemen, electricians, maids, etc. necessary to prepare and maintain the physical sites to the butlers and maids required to serve the additional guests and workers.
- c. - The insistence upon the most accurate picture possible of what the guests' program will be within the house and the additional numbers of people in the unofficial party expecting to be fed at Blair House contributes to a substantial savings as we do not then have to have large amounts of food prepared and an enlarged staff ready to handle a large number of guests and events which do not then materialize.
- d. - A system of vouchering or of reimbursement for meals given to our security, both the U.S.S.S. and the Department of State Security. Protocol will receive from these two groups a per diem or per capita rate depending on the size and length of the visit.
- e. - A reduction in staff size and number of hours worked by the permanent and the part-time members based on the size, time and nature of the visits and functions held at the house. This is a voluntary effort at my instructions on the part of the Blair House management to attempt to find ways of conserving funds without reducing the effectiveness of the operation.
- f. - Scheduling of state visits only on weekdays, thereby reducing considerably the payment of overtime wages to the permanent staff. The total combined costs of the state visits of the Secretary General of the United Nations, the Prime Ministers of Israel, Great Britain, and Japan, the Presidents of Egypt and the European Economic Community, and the King of Jordan could have been reduced by an estimated \$4,000.00 had they been scheduled in such a way that Saturday/Sunday arrivals and/or departures were eliminated. As you know Saudi Arabia will begin their visit on Monday/Tuesday-



May 24, 25 with the now concurrence of  
State and the NSC to our cost concerns.

The implementation of the preceding suggestions is resulting in a reduction of operational costs without a reduction in the quality of the maintenance of the house or the services offered to our foreign visitors. The reputation of Blair House as a fine guest house and example of American warmth, hospitality, and efficiency is one which has been established by the hard work and dedication of many people over the past years. It shall continue, however leaner.



Evan S. Dobelle

MEMORANDUM

THE WHITE HOUSE  
WASHINGTON  
100-111111-111111

INFORMATION

13 May 1977

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2. MARK SIEGEL MEMO informing you that, in contrast to Sen. McGovern, Sen. Culver recently made an extremely favorable speech about your first 100 days, before Iowa newspaper editors, on May 6. Culver listed the large volume of programs proposed by the Administration, praised your tackling the energy problem, and praised the "open style and moral content" of your foreign policy.

3. JAY SOLOMON LETTER informing you that GSA is implementing a three-year, \$17 million program to ensure that all GSA-controlled public buildings will be accessible, in all essential respects, to the physically handicapped by the end of FY 1979. (You may wish to keep this in mind if you attend the White House Conference for the Handicapped later this month.)

cc to CF

---

THE WHITE HOUSE  
WASHINGTON

May 16, 1977

Frank Moore -

The attached handwritten note to  
Senator Culver was returned in the  
President's outbox. The original  
is forwarded to you for appropriate  
delivery.

Rick Hutcheson

cc: Mark Siegel

Re: Carter Record

THE WHITE HOUSE  
WASHINGTON

*original + copy of Siegel  
memo to Frank Moore*

ACTION  
FYI

<input type="checkbox"/>	MONDALE
<input type="checkbox"/>	COSTANZA
<input type="checkbox"/>	EIZENSTAT
<input type="checkbox"/>	JORDAN
<input type="checkbox"/>	LIPSHUTZ
<input checked="" type="checkbox"/>	MOORE
<input type="checkbox"/>	POWELL
<input type="checkbox"/>	WATSON

<input type="checkbox"/>	ENROLLED BILL
<input type="checkbox"/>	AGENCY REPORT
<input type="checkbox"/>	CAB DECISION
<input type="checkbox"/>	EXECUTIVE ORDER

Comments due to  
Carp/Huron within  
48 hours; due to  
Staff Secretary  
next day

<input type="checkbox"/>	FOR STAFFING
<input type="checkbox"/>	FOR INFORMATION
<input checked="" type="checkbox"/>	FROM PRESIDENT'S OUTBOX
<input type="checkbox"/>	LOG IN/TO PRESIDENT TODAY
<input type="checkbox"/>	IMMEDIATE TURNAROUND

<input type="checkbox"/>	ARAGON
<input type="checkbox"/>	BOURNE
<input type="checkbox"/>	BRZEZINSKI
<input type="checkbox"/>	BUTLER
<input type="checkbox"/>	CARP
<input type="checkbox"/>	H. CARTER
<input type="checkbox"/>	CLOUGH
<input type="checkbox"/>	FALLOWS
<input type="checkbox"/>	FIRST LADY
<input type="checkbox"/>	GAMMILL
<input type="checkbox"/>	HARDEN
<input type="checkbox"/>	HOYT
<input type="checkbox"/>	HUTCHESON
<input type="checkbox"/>	JAGODA
<input type="checkbox"/>	KING

<input type="checkbox"/>	KRAFT
<input type="checkbox"/>	LANCE
<input type="checkbox"/>	LINDER
<input type="checkbox"/>	MITCHELL
<input type="checkbox"/>	POSTON
<input type="checkbox"/>	PRESS
<input type="checkbox"/>	B. RAINWATER
<input type="checkbox"/>	SCHLESINGER
<input type="checkbox"/>	SCHNEIDERS
<input type="checkbox"/>	SCHULTZE
<input checked="" type="checkbox"/>	SIEGEL
<input type="checkbox"/>	SMITH
<input type="checkbox"/>	STRAUSS
<input type="checkbox"/>	WELLS
<input type="checkbox"/>	VOORDE

THE WHITE HOUSE  
WASHINGTON

5-15-77

To John Culver

Thank you for the  
good words in Iowa  
about my first 100  
days.

Jimmy

THE WHITE HOUSE

WASHINGTON

May 12, 1977

MEMORANDUM TO THE PRESIDENT

FROM: MARK SIEGEL *hms*

SUBJECT: POSITIVE SPEECH BY SEN. CULVER ON CARTER RECORD

In light of McGovern's ADA criticisms, and yesterday's question at your press conference, I would like to excerpt some remarks that Senator John Culver, one of our Party's most liberal Senators, recently made in assessing your first 100 Days:

"Whether you are inclined to view him as an inspired leader or a potential disaster for the country, President Carter has established himself as a formidable personage in the White House."

"One of the things that thoughtful people worried about was that Carter might be too rigid and doctrinaire in operating in the big national arena where some compromise and yielding is, at times imperative...Yet he did back off from the \$50 rebate when he was convinced that it was unsound economics...He had the good sense to back up when he felt he had a loser in tow."

"True to promise, the Carter Administration is bringing out programs, almost more rapidly than the average eye can follow. We have an Energy program, a farm program, a government reorganization program, a program for economic stimulation and curbing inflation. In foreign policy, we have new initiatives in arms control, human rights, nuclear proliferation and the mideast. New negotiations are in motion with regard to Cuba, Panama, and Vietnam... The Administration has taken a stiff position at the outset with the Soviets on Arms control and with other nations on economic matters. I am not one who feels that this approach is wrong."

"I cannot help admiring a President who has the courage and principle to put the full power and prestige of his office on the line to awaken the country to an emergency we all know we must face sooner or later, however much we dislike the grim reality. What Mr. Carter has done, in my judgment, is to forge the basic foundation of an energy program which will undoubtedly be amended by Congress, responsive to public demand, but which will eventuate into the first responsible energy policy this Nation has had."

"If Jimmy Carter is willing to tackle the massive and incredibly complex energy problem, we can hardly doubt his determination to come to grips with the other priority problems facing the Nation."

THE WHITE HOUSE

WASHINGTON

Siegel, page 2

"I don't always agree with him; but win, lose or draw, I have become convinced that Jimmy Carter will give a good account of himself on any tough issue he confronts."

"In my judgment, the open style and moral content of President Carter's foreign policy has brought a new sense of unity and national pride to the country. And in the long run, it will pay off in our relations with the other countries of the world...After years of devious pussyfooting and ultra-secret diplomacy in the conduct of our foreign affairs, an open international policy that clearly stands for something will win us respect in the world community."

These remarks were delivered by Sen. Culver on May 6 to the Iowa Associated Press Managing Editors Association, Ames, Iowa.

## THE WHITE HOUSE

WASHINGTON

THE PRESIDENT HAS SEEN.

INFORMATION

13 May 1977

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*Original GSA memo to CF*





MAY 11 1977

RL  
The President  
The White House  
Washington, DC 20500

Dear Mr. President:

Aware that the White House Conference for the Handicapped is to be held later this month, we thought that a report to you would be timely on an accelerated effort being made by the General Services Administration (GSA) to help meet the national goal of full equality for the handicapped.

At the start of FY 1977, GSA identified a \$17 million backlog of handicapped-related projects for removing architectural barriers in existing Government-owned buildings which we operate. The original plan was to program these projects over a five-year period. Knowing the high priority you would want assigned to this effort, we are shortening this period to three years.

The revised plan provides for expenditures of \$2.3 million on handicapped facilities in FY 1977, another \$6 million to be spent on such work in the succeeding twelve months, and the balance of the \$17 million in handicapped-related work to be programmed for FY 1979.

This will mean that GSA-controlled public buildings will be accessible, in all essential respects, to the physically handicapped by the end of FY 1979.

We think this will be a major contribution to the Nation's effort to assist the handicapped in their day-to-day living.

Respectfully,

  
JOEL W. SOLOMON  
Administrator

THE WHITE HOUSE  
WASHINGTON

May 12, 1977

For: Rick Hutcheson

From: Bob Lipshutz *BJ*

As soon as you receive this back  
from the President with his signature,  
please get it back to me so that Jody  
and I can complete the distribution  
on Friday.

*Rick:*

*I took  
the original  
of this to the  
President.*

*BJ*

*7:00 P.M.*

*Thursday*

*5/12/77*

85/13/76

THE WHITE HOUSE  
WASHINGTON  
May 12, 1977

*[Handwritten signature]*

MEMORANDUM FOR: THE PRESIDENT  
FROM: JIM FALLOWS *JK*  
SUBJECT: Bill Signing on Public Works/Jobs Program

Griffin Smith has prepared the following talking points:

There is full agreement in all quarters about the main points you should make at this signing. These are

1. CONGRESSIONAL COOPERATION. This legislation is an example of the very best in relations between Congress and the Executive Branch. It represents the kind of cooperation necessary to get the rest of the economic stimulus program through. Despite some talk about congressional relations not being all they could be, this is an example of how Congress and the President, faced with great national need, can work together harmoniously.

2. ECONOMIC IMPROVEMENT. In your January message on economic recovery, you said that "a vigorous U.S. economy is vital to our domestic welfare as well as to world stability and order." This legislation is concrete evidence that significant steps are under way to strengthen the economy at once. The Labor Department estimates that H.R. 11 alone will create 600,000 jobs in construction and related industries.

You might also mention:

3. HUMANITARIAN IMPULSE. This legislation shows a willingness to help those who need it most. It reflects an understanding of how desperate and discouraging life is for those who want to work and cannot find a job. There was a time, in previous administrations, when this humane impulse to help seemed to be absent from the White House, but it is something on which you and the 95th Congress plainly agree.

You have received conflicting suggestions from the agencies and your staff about whether you should publicly criticize certain provisions in H.R. 11. If you choose to follow the advice of Treasury and OMB and do so, some suggested language is attached on the following page.

Optional paragraph reflecting the concerns of OMB and Treasury:

While I am gratified and encouraged by this bill as a whole, I cannot endorse all of its provisions. Two of them, in particular, serve no proper federal purpose and violate the spirit of our federal system. The first unjustifiably limits state and local government flexibility by requiring that all public works projects be built by private contractors, rather than by public employees. Supervising other governments' decisions in such minute detail is not the appropriate business of the federal government. The second objectionable provision would require that state and local workers employed on public works projects be paid at the "prevailing wages" of private enterprise, as established by the Davis-Bacon Act. This is an unwarranted and unnecessary invasion of state and local authority to set wage rates for their own public employees.

9:30 a.m.

THE WHITE HOUSE  
WASHINGTON

May 11, 1977

MEMORANDUM FOR: THE PRESIDENT  
FROM: STU EIZENSTAT *Stu*  
SUBJECT: Signing Ceremony

A signing ceremony is scheduled for Friday for both of the attached bills. Talking points for the ceremony are attached; they have been approved by Jim Fallows.

**Electrostatic Copy Made  
for Preservation Purposes**

H.R. 11

THE WHITE HOUSE

WASHINGTON

May 11, 1977

MEMORANDUM FOR: THE PRESIDENT  
FROM: STU EIZENSTAT *Stu*  
SUBJECT: H.R. 11/ Local  
Public Works

You have until Monday May 16th to sign this bill.

THE BILL

H.R. 11 provides \$4 billion for Local Public Works projects. Almost all of the money will be allocated immediately for projects that have already been applied for. As agreed to by the conferees, the bill contains almost all of the provisions we had sought. These include the 65-35 unemployment distribution formula, and the elimination of the 30% set aside for areas below the national unemployment rate. The conferees did retain five provisions with which we disagreed:

- A requirement that cost-benefit ratios used to assess water projects use the legal discount rate, as defined in the 1974 law. In OMB's view this does not affect your freedom to use any discount rate you feel is appropriate to evaluate water projects.
- A directive that funds appropriated for water resources projects in 1977 be spent notwithstanding the rescission and deferral provisions of the Impoundment and Control Act. OMB and Justice are uncertain as to the precise effect of this provision but feel that the limitation on your flexibility is moot since no rescissions or deferrals are contemplated in 1977.
- A provision requiring payment of the prevailing wage to all construction workers on projects and a provision prohibiting the use of public employees on construction projects. Our opposition to these two provisions was either not persuasive or not conveyed to the conferees.

-- A "Buy-America" provision requiring that all materials be manufactured in this country.

While some agencies are concerned about these provisions, none feels that they outweigh the arguments in favor of signing the bill.

THE VOTES IN CONGRESS

House - 335-77  
Senate - 74-14

ARGUMENTS FOR SIGNING

This bill corresponds in all major respects to our proposals.

ARGUMENTS FOR VETO

None

AGENCY AND STAFF RECOMMENDATIONS

The Department of Treasury has objections to this bill but defers to other agencies. All other cabinet agencies consulted registered approval or no objections to signing the bill.

Jack Watson, Frank Moore and I favor signing the bill.

I have checked with Bob Lipshutz and with the General Counsel of OMB about the possible binding nature of the water projects language. They agree it has no binding effect. Therefore, we are not putting anything in the attached statement indicating your disagreement with the language.



SIGNING STATEMENT

I am pleased to sign into law two pieces of legislation which will put into effect the essential elements of our economic stimulus program.

H.R. 11 authorizes \$4 billion for grants to state and local governments for public works projects.

4876  
H.R. 4976, appropriates \$20.1 billion to carry out these newly authorized public works and the other parts of the stimulus program including:

- Nearly \$8 billion for public service jobs over the next 18 months, most of which will be used for those who have been employed for 15 weeks or more. These funds will bring the total number of public service jobs to 725,000 by the end of next year, in a program that will be designed and managed at the state and local community level.
- First year funding of \$1 billion for our youth employment and training program, enough for an estimated 200,000 youth jobs including a Young Adult Conservation Corps and local community

programs. I learned in Europe how serious the problems of unemployed young workers are in all the industrial democracies. I am pleased that we are making a genuine effort in this country to find answers.

-- Anti-recession financial assistance payments to state and local governments of \$632.5 million.

The public works legislation has been developed through very close cooperation between the Congress and the Executive Branch. The Department of Labor estimates that it will create 300,000 new jobs in the construction industry, as well as another 300,000 in other fields associated with construction. This will do much to alleviate our unacceptably high level of unemployment.

H.R. 11 not only authorizes more money for public works projects, but it also improves the way this money will be distributed. Specifically, it will:

- support projects in places that now suffer from especially high unemployment;
- create additional jobs in private enterprise;
- help local communities build the new public facilities they need.

Last January, in the Message to Congress that accompanied my Economic Recovery Program, I said that a vigorous American economy was vital both for our domestic welfare and for world stability. With this legislation, we have tangible proof that a significant step has been taken toward strengthening our economy. I congratulate the Congress for its energetic response to this need.



EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

MAY 10 1977

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 11 - 1977 Amendments to the  
Local Public Works Capital Development and  
Investment Act  
Sponsor - Rep. Roe (D) New Jersey and 24 others

Last Day for Action

May 16, 1977 - Monday

Purpose

Authorizes an additional \$4 billion to State and local governments for public works projects and declares that funds for certain water resource projects shall be made available notwithstanding the rescission and deferral provisions of the Impoundment Control Act of 1974.

Agency Recommendations

Office of Management and Budget	Approval (signing statement attached)
Department of Commerce	Approval (signing statement attached)
Department of Agriculture	Approval (Informally)
Department of Labor	Approval
Department of the Interior	Approval
Council of Economic Advisers	Approval
Department of Defense	No objection
Department of Housing and Urban Development	No objection
Department of Justice	No objection
Environmental Protection Agency	Defers (Informally)
Department of the Treasury	Has objections but defers

Discussion

Before your January 31 Economic Recovery Message to the Congress, the Department of Commerce was already working with congressional committees on public works legislation. Because the legislation (H.R. 11) largely reflected the Administration's

position, the Administration did not submit its own public works bill. H.R. 11, the first component of your economic recovery package to be enacted by Congress, is substantially similar to the Administration's recommendations, although the bill does contain five undesirable provisions. The conference report on the bill passed the Senate 74-14 and the House 335-77.

The appropriation bill for the public works authorized by this bill is also enrolled.

#### Major Provisions

The major provisions of H.R. 11 that are consistent with Administration objectives would:

- authorize an additional \$4 billion to be obligated immediately for local public works projects. (December 23, 1976 is the cut-off date for applications received by the Economic Development Administration to be considered for this next round of funding).
- allocate these funds among the States by a formula which distributes 65% of the funds according to the number of unemployed and 35% to those States with unemployment rates of 6.5% or above; no State is to receive less than .75% (\$30 million) nor more than 12.5% (\$500 million).
- delete the current requirement that 70% of the funds go to State and local projects in areas of the State having an unemployment rate higher than the national rate, and the remaining 30% to go to areas in the State with an unemployment rate over 6.5% but below the national average.
- set aside 2 1/2% of the funds for Indian tribes and Alaska Native villages.
- require that at least 10% of the amount of each grant be expended for minority business enterprises--except in areas with minority populations of less than 5%.
- direct the Secretary of Commerce to study public works investment in the United States and report to the Congress within 18 months.

The provisions about which we have reservations would:

- require that all public works projects be built by private contractors ("force account");
- expand the application of the wage determinations made under the provisions of the Davis-Bacon Act to require that Davis-Bacon "prevailing wages" be paid to State and local employees employed on public works projects, as well as to contractor employees.

Both of these provisions are designed to achieve the same immediate result--to insure that only "prevailing wages" as determined by Labor will be paid to all laborers and mechanics employed on projects under this act whether on private or public payrolls. Prohibiting State and local governments to use their employees and insuring that Davis-Bacon wages are paid on all projects will, we believe, result in both higher project costs and fewer projects, thereby reducing the number of jobs created.

However, it is the potential of the Davis-Bacon clause that we view as the most serious problem. Enactment of this clause could be a first step toward the Federal Government setting State and local wage rates and could establish a dangerous precedent if backers seek to insert identical wording in other laws, like the Comprehensive Employment and Training Act or the pending Youth Employment and Training bill. A clause like this in the youth bill would make the bulk of the program unworkable.

No obvious Federal policy or program goal is achieved by inserting Federal regulations like these into State and local government procedures. You earlier reviewed the "force account" and Davis-Bacon provisions and decided that the Administration should oppose them. However, the Commerce Department did not convey your views to the conferees before they acted on the provisions.

- require that all supplies and materials going into projects be produced in the United States from supplies and materials mined or produced in the United States, unless the Secretary of Commerce determines it to be inconsistent with the public interest, the cost unreasonable, or the supplies or materials are not mined, produced or manufactured in the United States in sufficient quantities or satisfactory quality ("buy America" provision).

Both State and Commerce and the Special Trade Representative unsuccessfully expressed opposition to the "buy America" provision to the House. Unfortunately, the Senate added an identical provision to its bill on the floor. Therefore, the provision was in both the House and Senate versions of the bill and could not be changed in conference.

In its attached views letter, the Department of Justice expresses concern with the potential anticompetitive effects of this provision and states that it expects the Secretary of Commerce to exercise her authority to waive this provision when the statutory criteria permit a waiver.

- direct that funds appropriated for water resources projects in the 1977 Agriculture and Public Works Appropriations bill (except for the Mermac Park Lake project in Missouri) be made available notwithstanding the rescission and deferral provisions of the Impoundment Control Act of 1974.

The Department of Justice, in its attached views letter, states that the precise effect of this provision "is not free from doubt." It can be read, in Justice's view, as suspending the Budget Control and Impoundment Act for the funds already appropriated for 1977. If this interpretation is correct, the provision would be "a directive to the President that all funds previously appropriated for these projects, including funds appropriated for fiscal year 1977, must be made available for expenditure during that fiscal year."

On the other hand, we believe the provision can be interpreted as not prohibiting your proposing the rescission or deferral of the funds but preventing putting the funds in reserve while the rescission or deferral is being considered by the Congress. Ordinarily, funds are withheld from availability during congressional consideration.

Either interpretation would place an undesirable limit on your flexibility. However, since no current rescissions or deferrals would be affected, we consider it to be an issue of minor concern.

- reiterate that the interest rates or discount rates used to assess the return on the Government's investment in projects carried out by the Corps of Engineers or the Bureau of Reclamation shall be those established by the Water Resources Development Act of 1974 or by the prior law authorizing such projects.

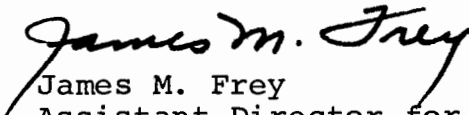
This provision can be read as an expression of congressional dissatisfaction with the use of the 6 3/8 percent discount rate to evaluate water projects in the recent review. It does not change existing law under which project feasibility studies sent to Congress must include benefit cost ratios computed using the legally defined discount rate. However, it has been our position that the President may use any discount rate for his own decision-making he finds appropriate.

A list of other provisions in the bill is attached.

#### Conclusion

While it would be preferable if H.R. 11 did not contain the objectionable provisions mentioned above, we believe that on balance the bill is acceptable and should be approved.

A proposed signing statement is enclosed with the Commerce views letter. We have also attached a signing statement for your consideration, which contains a paragraph expressing your concern with the Davis-Bacon and "force account" provisions. This paragraph does detract somewhat from the otherwise laudatory tone of the statement and it is contrary to the specific request made by Labor in its views letter that "no adverse reference be made to these Davis-Bacon provisions." However, we have included it because you made an explicit decision on this issue and because we believe that such a statement may serve notice that efforts to replicate such provisions elsewhere will be resisted. It is also consistent with the views of Treasury and the Council of Economic Advisers.

  
James M. Frey  
Assistant Director for  
Legislative Reference

Enclosures



Additional Provisions Included in H.R. 11

- The timespan for the unemployment data used in making grants is changed from the 3-most recent consecutive months to the 12-most recent consecutive months, in order to smooth out seasonal fluctuations.
- A project proposed by a State or special purpose district endorsed by a general purpose local government will receive priority and preference.
- Applicants who receive a grant for a project may substitute a disaster (drought) related project with the approval of the Secretary of Commerce.
- In evaluating projects, the Secretary is required to give consideration to building projects which conserve energy.
- The Secretary shall issue regulations to assure that projects give special consideration to the employment of qualified disabled veterans and Vietnam-era veterans.
- All projects constructed under this program must provide accessibility to the handicapped and elderly.
- School districts shall be accorded equal treatment with local governments in the scoring system used to evaluate projects.

H.R. 4876

THE WHITE HOUSE

WASHINGTON

May 12, 1977

MEMORANDUM FOR: THE PRESIDENT  
FROM: STU EIZENSTAT *Stu*  
SUBJECT: Enrolled Bill H.R. 4876 --  
Economic Stimulus Appropriations  
Act, 1977

THE BILL

H.R. 4876 appropriates \$20.1 billion in FY 1977 budget authority for essential elements of your economic stimulus program, including public service jobs, employment and training programs, public works, and other antirecession assistance. In addition, the bill provides requested funding for general revenue sharing and a portion of your request for drought assistance as well as approximately \$800 million in unrequested funding for the third orbiter space shuttle, EPA construction grants, and federal highway and railroad improvement programs.

VOTES IN CONGRESS

The enrolled bill passed the Senate by voice vote and the House by 326-87.

AGENCY AND STAFF RECOMMENDATIONS

The affected agencies recommend that you sign the bill. OMB approves, despite the unrequested funding, because of the urgent need for the balance of the measures in the bill. Frank Moore, Jack Watson, and I recommend that you sign the bill.

DECISION

\_\_\_\_\_ ☒ Approve H.R. 4876  
\_\_\_\_\_ Disapprove H. R. 4876



## EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

MAY 11 1977

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 4876 - Economic Stimulus Appropriations Act, 1977

Last Day for Action: May 18, 1977

Signature as soon as possible is recommended. Because of the prolonged congressional delay on this bill due to problems with authorizing legislation, several items in the bill require immediate funding in order to provide the desired impact in 1977.

	<u>Administration Request</u>	<u>Enrolled Bill</u>	<u>Congressional Change</u>
Appropriations (in millions of dollars)	20,825	20,101	-724

Effect on Estimated Outlays (in millions of dollars)

<u>1977</u>	<u>1978</u>	<u>1979</u>	<u>1980</u>	<u>1981</u>
-90	+335	+139	+58	+26

Highlights

Included in this bill are the essential elements of your economic stimulus proposal: increasing public service jobs, expanding the local public works program, and extending antirecession financial assistance.

In addition, significant increases, which will result in future increased spending, were added by the Congress and include funds for the third orbiter shuttle, Environmental Protection Agency construction grants, and federal highway and federal railroad improvement programs.

However, these increases are more than offset by a reduction in the amount provided for public service jobs through the 18-month funding approach taken by Congress.

Also, the bill provides--unrelated to your stimulus proposals--requested funding for general revenue sharing and a portion of your request for drought assistance.

Recommendation

I recommend that you sign the bill. Although this bill contains several undesirable elements, I do not recommend a veto because of the urgent need for the majority of the items in the bill.

A more detailed discussion is attached.

  
Bert Lance  
Director

Attachment



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

MAY 11 1977

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 4876, Economic Stimulus Appropriations Act, 1977  
Sponsor - Rep. Mahon (D), Texas

Last Day for Action

May 18, 1977 - Wednesday

Signature as soon as possible is recommended. Due to the delay in final congressional action caused by problems relating to authorizing legislation, several items in this bill require immediate funding in order to have the desired impact in 1977.

Purpose

Appropriates \$20,101,484,000 in fiscal year 1977 budget authority to certain agencies sponsoring economic stimulus programs such as public service jobs, employment and training programs, public works, and other antirecession assistance.

Agency Recommendation

Office of Management and Budget

Approval

Affected agencies

Approval (informally)

Discussion

The enrolled bill provides funding for your economic stimulus requests including:

- antirecession financial assistance payments to State local governments;
- public service job funding under the Comprehensive Employment and Training Act and other programs administered by the Employment and Training Administration;
- funds for the local public works program administered by the Economic Development Administration.

In addition, your request for general revenue sharing payments is provided for along with substantial unrequested funds for construction grants for the Environmental Protection Agency, for research and development relating to the production of a third Space Shuttle orbiter for the National Aeronautics and Space Administration, and for various programs of the Department of Transportation.

The total new budget authority provided in this bill, \$20,101.5 million is \$723.8 million below your requests. This apparent savings is misleading, however. By assuming a different obligation pattern for public service jobs--a change discussed more fully later in this memorandum--the Congress was able to cut \$1,187 million from the amount requested for obligation in 1978. If these jobs had been linked to projects continuing into 1979, as your budget assumed, this amount would have been needed. The real impact of Congressional action on the entire bill is to increase budget outlays in 1978 and later years.

All of the funds provided in the bill are made available in 1977. Of your \$20,825.3 million request, \$7,871.0 million was specifically proposed for fiscal year 1978 but was considered by the Congress as a 1977 request.

It is estimated that congressional action on your budget authority proposals for this bill will affect spending as follows:

(in millions of dollars)

<u>1977</u>	<u>1978</u>	<u>1979</u>	<u>1980</u>	<u>1981</u>
-90	+335	+139	+58	+26

The following table reflects the effect of major congressional action on your budget requests in the enrolled bill:

(in millions of dollars)

<u>Program areas</u>	<u>1977 Budget Authority</u>		<u>Effect of Budget Authority Change on Outlays</u>	
	<u>Request Considered</u>	<u>Congres- sional Change</u>	<u>1977</u>	<u>1978</u>
Department of Commerce.....	4,225	-50	-25	-25
Local Public Works.....	(4,000) <u>1/</u>	---	---	---
Drought Assis- tance Program...	(225)	(-50)	(-25)	(-25)
Department of Labor.....	10,682	-1,192	-25	19
Temporary employ- ment assistance.	(8,034) <u>2/</u>	(-1,187)	---	---

(in millions of dollars)

Program areas	1977 Budget Authority		Effect of Budget Authority Change on Outlays	
	Request Considered	Congres- sional Change	1977	1978
(continued)				
Employment and training assis- tance.....	(2,638) 3/	(-60)	(-35)	(-25)
Community Service Employment for Older Americans.	---	(59)	(15)	(44)
Other.....	(10)	(-4)	(-4)	---
Department of Trans- portation.....	---	416	22	226
Federal Highway Administration..	---	(+316)	(5)	(121)
Federal Railroad Administration..	---	(+100)	(10)	(90)
Federal Aviation Administration..	---	---	(7)	(15)
Department of the Treasury.....	5,918	-293	-293	---
Revenue Sharing Payments.....	(4,991)	---	---	---
Antirecession financial assis- tance.....	(925)	(-292.5)	(-292.5)	---
Internal Revenue Service: Accounts, collection, and taxpayer service.....	(2.4)	(-0.4)	(-0.4)	---
Environmental Protec- tion Agency.....	---	300	160	90

(in millions of dollars)

<u>Program areas</u>	<u>1977</u> <u>Budget Authority</u>		<u>Effect of Budget</u> <u>Authority</u> <u>Change on Outlays</u>	
	<u>Request</u> <u>Considered</u>	<u>Congres-</u> <u>sional</u> <u>Change</u>	<u>1977</u>	<u>1978</u>
(continued)				
National Aeronautics and Space Adminis- tration.....	---	95	70	25
TOTAL.....	20,825	-724	-90	335

- 1/ Local public works: Reflects shift into 1977 of \$2 billion requested for 1978. Consistent with recent authorizing legislation, this action will preclude a new solicitation of applications for 1978 projects.
- 2/ Temporary employment assistance: Reflects shift of \$3,668 million into 1977 out of the \$4,855 million requested for 1978.
- 3/ Employment and Training Assistance: Reflects shift into 1977 of \$1,016 million requested for 1978 public service jobs.

The remaining sections of the analysis discuss--in terms of budget authority--the major changes made to your requests and the programmatic implications of these changes.

#### MAJOR INCREASES

##### Department of Transportation

The enrolled bill provides an unrequested \$416.0 million for various improvement and construction related projects of the Federal Highway Administration and the Federal Railroad Administration.

Funds for projects administered by the Federal Highway Administration (\$316.0 million) account for the largest portion of this increase and include the following:



- An unrequested \$200 million for the safer off-system roads program would provide 70 percent Federal grant assistance for the construction or reconstruction of roads other than those on the Federal-aid highway system. This will ensure continued Federal involvement in assisting States with the improvement of their rural roads that have low levels of traffic.
- An unrequested \$75 million for start-up costs of the off-system railway-highway crossings program would provide 90 percent Federal grant assistance to States for the elimination of railway-highway grade crossings on roads other than those on the Federal-aid highway system. Projects include crossing separation, relocation, and/or installation of flashing lights on gates. Your 1978 Budget requested \$25 million for this program. Although there is no emergency need for these funds, the effect of this appropriation would be to start the program earlier than originally anticipated.
- An additional \$16 million for railroad-highway crossings demonstration projects would increase the number of railroad relocation projects that could be initiated in 1977-78, consistent with nineteen specific sites selected by the Congress.
- An additional \$15 million would increase 1977 funding for bridges associated with the Tennessee - Tombigbee Waterway and the Oahe Reservoir. Originally, the States involved had agreed to assume the full cost of the bridges.
- Finally, \$10 million is provided for traffic control signalization demonstration projects designed to demonstrate methods of improving highway safety and traffic flow. Funds are already available for these types of projects from the Federal-aid highways account.

Unrequested funds of \$100 million are included for two programs of the Federal Railroad Administration:

- The Northeast corridor improvement program would receive \$50 million to speed up various labor-intensive construction programs currently underway. The Committee Reports stated that this increase would create 3,000 additional jobs this year. However, we believe that presently available funds would be sufficient to provide the maximum obtainable construction program within the existing constraints imposed by normal rail operations.

- The railroad rehabilitation and improvement financing fund would receive \$50 million to begin the railroad rehabilitation and revitalization program. The House Appropriations sub-committee--in its action on the 1978 Transportation Appropriations Bill-- has decreased your 1978 request of \$275 million by \$75 million, in part to offset the funding provided by this bill.

In addition, to these budget authority increases, the enrolled bill provides an increase of \$35 million in the obligation limitation on airport development aid grants which would allow the Federal Aviation Administration to meet anticipated entitlement and discretionary funding requests through September 30, 1977.

Although we object to the increased funding the bill provides for highway and railroad programs on grounds that it is duplicative or inappropriate at this time, we do not believe the increases are serious enough to prompt our recommending your disapproval of the bill. We will consider recommending rescissions or deferrals of these amounts in the bill at some point in the future.

#### National Aeronautics and Space Administration

The enrolled bill contains an unrequested \$95 million for the National Aeronautics and Space Administration's research and development efforts related to the third shuttle orbiter. Funds for this item were deferred last year but are included in your 1978 budget. These funds were made available to prevent an employment gap in the shuttle work now underway and would basically accelerate the development of the third space shuttle orbiter.

#### Environmental Protection Agency

The Congress added \$300 million in unrequested funds for the Environmental Protection Agency to reimburse localities for construction of publicly owned waste treatment works that were initiated between 1966 and 1972. Since the reimbursement grants will repay communities for work already performed, their inclusion in an economic stimulus bill is questionable.

#### MAJOR DECREASES

#### Department of Labor

In action on this bill, the Congress shifted much of your 1978 request for public service jobs funds into 1977,

without affecting program enrollment goals. The bill also requires absorption within available resources of the costs of certain small, stimulus package employment and training programs; makes cuts in personnel costs to reflect what the Congress judges to be more realistic phase-up rates; and provides additional funds for the Older Americans program. Specifically:

- For public service jobs, you had requested a total of \$3,303 million in 1977 and \$5,871 million in 1978 to provide 24 months of funding for some of the public service jobs and 18 months for the balance. The Congress has, instead, provided funding for eighteen months, for all jobs, and has reduced the total funding by \$1,187 million--an amount which your budget assumed would be obligated in 1978 and outlayed in 1979. We have now accepted a proposal from the Department of Labor to obligate the amount which the Congress is appropriating (\$7,987 million) in 18 month grants (i.e., through September, 1978). The subsidized jobs levels in your proposal (600,000 in 1977; 725,000 in 1978) are not changed by this action. Outlays may go down slightly in 1977, more as a result of the delay in appropriation than because of this new obligation pattern. Outlays in 1978 are not affected. The reduction in budget authority will be reflected in 1979 outlays if the remaining amount of the request is not provided in the 1978 or 1979 appropriations.
- Programs for Indians, migrant and seasonal farmworkers, veterans, and apprenticeship were approved by the Congress, but without the requested budget authority of \$60 million. Committee reports state that the Department should use unallocated discretionary resources already available for these purposes. An increase of \$59.4 million for 14,800 part-time jobs under the Older Americans program is included in the bill as an offset to this \$60 million required absorption.
- The employment levels you requested were approved in terms of end-of-year strength (+572 positions), but the funds were reduced to reflect a congressional judgement that a slower hiring rate is more realistic.

#### Department of the Treasury

The enrolled bill reflects a net reduction of \$293 million from your request for the Department of the Treasury.

Concurring in your recent initiative to withdraw those portions of this bill that related to the \$50 per individual tax rebate proposal, the Congress deleted funding for those items during conference action on the bill.

Almost the entire reduction (\$292 million) from your revised request is applied to the Antirecession Financial Assistance Fund. The amount appropriated provides for the application of a new formula for the distribution of countercyclical aid, beginning in the July 1, 1977 quarter rather than the April 1, 1977 quarter as requested. The new formula would provide quarterly payments of \$125 million plus \$30 million for each one-tenth of a percentage point that the national unemployment rate exceeds 6 percent. These payments would be made to State and local governments with unemployment rates in excess of 4.5 percent in the fourth quarter of 1977.

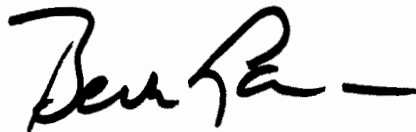
The Congress has provided the entire amount of your request (\$4,991 million) for the general revenue sharing program. Payments for the quarter ending March 31, 1977 had already been allowed by Public Law 95-16, the extension to the continuing resolution.

#### Department of Commerce

Your \$225 million request for the Department of Commerce's drought assistance program has been reduced by \$50 million. This item was originally considered in the Supplemental Appropriations Act, 1977 (Public Law 95-26) but was deleted due to lack of authorizing legislation. It is the view of the Congress that the \$175 million provided in this bill is sufficient to fund the program through September 30, 1977. If it is determined that additional funds are necessary in 1978, it appears likely that the Congress would consider further requests for this program.

#### Recommendation

I recommend that you sign the enrolled bill. Although this bill contains several undesirable elements, I do not recommend a veto because of the urgent need for a majority of the items in the bill. Overall, the urgent need for the economic stimulus provided by this bill outweighs the several disadvantages.





THE WHITE HOUSE  
WASHINGTON

May 13, 1977

Tim Kraft  
Frank Moore

The attached was returned in  
the President's outbox and is  
forwarded to you for your  
information.

Rick Hutcheson

Re: Bill Signing Ceremony  
3/13/77

THE PRESIDENT HAS SEEN.

9:30

C  
/

THE WHITE HOUSE

WASHINGTON

May 12, 1977

BILL SIGNING CEREMONY

Friday, May 13, 1977

The Rose Garden

9:30 a.m. (15 Minutes)

From: Frank Moore *FM*

I. PURPOSE

To sign into law H.R. 11, the Public Works Jobs Bill, and H.R. 4876, the Economic Stimulus Appropriations Bill.

II. PARTICIPANTS AND PRESS PLAN

A. Participants: See attached lists

B. Press Plan: Full Press Coverage

III. TALKING POINTS

1. Detailed talking paper being prepared by Stu Eizenstat.

2. You should make some special mention of Secretary Kreps' work on this legislation and the task she faces in implementing the jobs bill.

NOTE: Secretary Kreps called to express her desire to speak for one or two minutes following the signing of the jobs bill.

**Electrostatic Copy Made  
for Preservation Purposes**

X

PARTICIPANTS

The President

Secretary Kreps  
Secretary Blumenthal  
Secretary Marshall

MEMBERS OF CONGRESS

Senate:

Robert Byrd  
Jennings Randolph  
Daniel Patrick Moynihan  
Robert Stafford  
Quentin Burdick  
James McClure  
Pete Domenici  
Ed Muskie  
Wendell Anderson  
John Chaffee  
John Durkin  
Malcolm Wallop  
Birch Bayh  
Lawton Chiles  
Milton Young  
Charles McC. Mathias, Jr.  
Clifford P. Case  
Lowell P. Weicker

Senate Staff:

Public Works Committee

John Yago  
Richard Greer  
Judy Parente  
Leon Billings  
James Case  
Philip Cummings  
Dick Harris  
Elliott Abrams  
Bailey Gard

Appropriations Committee

James Calloway  
James English  
Warren Kane  
Terry Lierman  
Frederick Rhodes  
Tom van der Voort  
Proctor Jones

House

Bizz Johnson  
Robert Roe  
John Hammerschmidt  
Jim Wright  
John Breaux  
Norm Mineta  
Henry Nowak  
Bob Edgar  
James Oberstar  
Jim Howard  
Mike McCormack  
George Hansen  
Don Clausen  
James Cleveland  
Mario Biaggi  
Shirley Chisholm  
Ron Dellums  
Walter Fauntroy  
Parren Mitchell

House Staff

Public Works Committee

Dick Sullivan  
Robert Paul  
Lester Edelman  
Robert Mowson  
Carl Lorenz  
John Barriere  
Irv Sprague

Appropriations Committee

Keith Mainland  
Dick Malow  
Henry Neil  
Dempsey Mizelle  
John Osthaus  
Tom Kingfield  
Michael Hugo

CONTINUED ON NEXT PAGE



House (cont'd.)

Charles Rangel	Doug Applegate
Gus Hawkins	George Mahon
Barbara Jordan	Jamie Whitten
Cardiss Collins	Robert Sikes
Louis Stokes	Edward Boland
Robert Nix	William Natcher
Harold Ford	Dan Flood
Charles Diggs	George Shipley
John Brademas	John Slack
Thomas Foley	John Flynt
Dan Rostenkowski	Robert Giaimo
Bo Ginn	John McFall
Dale Milford	Ed Patten
Elliott Levitas	Frank Evans
Jerry Ambro	David Obey
Marilyn Lloyd	Bill Chappell
John Fary	Bill Burlison
Ted Risenhoover	Bill Alexander
Bill Hefner	Ed Koch
David Cornwell	John Murtha
Robert Young	Bob Traxler
Allen Ertel	Bob Duncan
Gene Snyder	Max Baucus
Bud Shuster	Lindy Boggs
Bill Walsh	Adam Benjamin
Thad Cochran	Norm Dicks
James Abdnor	Robert Michel
Gene Taylor	Silvio Conte
Tom Hagedorn	Silvio McDade
Gary Myers	Mark Andrews
Billy Lee Evans	Ken Robinson
Ronnie Flipppo	Clarence Miller
Nick Joe Rahall	Larry Coughlin
Jack Kemp	C. W. Bill Young
Ralph Regula	Virginia Smith

Labor Leaders

George Meany, AFL-CIO  
Lane Kirkland, AFL-CIO  
Tom Donahue, AFL-CIO  
Andrew Biemiller, AFL-CIO  
Kenneth Young, AFL-CIO  
Robert Georgine, AFL-CIO  
Joseph Maloney, AFL-CIO  
George Hardy, Service Employees International Union  
J. C. Turner, International Union of Operating Engineers  
John H. Lyons, International Association of Ironworkers  
Charles H. Pillard, International Brotherhood of Electrical Workers  
Howard Paster, United Auto Workers

Thomas F. Murphy, United Brotherhood of Bricklayers and Allied  
Craftsmen  
Pascal DiJames, United Brotherhood of Tile, Marble, Terrazzo,  
Finishers and Shopmen

State and Local Officials

Governor J. Joseph Garrahy, Rhode Island  
Mayor Lee Alexander, Syracuse  
Mayor Abraham Beame, New York  
Mayor Thomas Bradley, Los Angeles  
Mayor Robert Beaudin, Duluth  
Mayor Vincent Cianci, Providence  
Mayor Arthur Clark, Waltham, Mass.  
Mayor Robert Cunningham, Omaha  
Mayor Bruce Gies, Hawthorne, California  
Mayor Kenneth A. Gibson, Newark  
Mayor Neil Goldschmidt, Portland  
Mayor Edward A. Hanna, Utica  
Mayor William Hanna, Rockville, Maryland  
Mayor Janet Gray Hayes, San Jose  
Mayor Jack C. Hunter, Youngstown  
Mayor Maynard Jackson, Atlanta  
Mayor Nathan B. Kaufman, University City, Missouri  
Mayor Moon Landrieu, New Orleans  
Mayor William T. McLaughlin, Wilmington  
Mayor Robert W. McGaw, Rockford, Ill.  
Mayor William H. McNichols, Denver  
Mayor George R. Moscone, San Francisco  
Mayor Gordon B. Mowrer, Bethlehem, Penna.  
Mayor Hugh Parmer, Fort Worth  
Mayor Ralph J. Perk, Cleveland  
Mayor Joseph P. Riley, Jr., Charleston, South Carolina  
Mayor John Rousakis, Savannah, Georgia  
Mayor James Ryan, Arlington Heights, Illinois  
Mayor John R. Willertzt, Bay City, Michigan  
Mayor Coleman Young, Detroit  
Mayor Walter Washington, D. C.  
State Legislators

Senator John Caemmerer, New York  
Representative William Hamilton, New Jersey  
Senator Steny Hoyer, Maryland  
Representative Leon Irvis, Penna.  
Martin Sabo, Minnesota  
Delegate Robert Washington, Virginia  
Representative James Ritter, Penna.

County Officials

Dan Lynch, Nebraska  
Betty Gill, West Virginia

CONTINUED ON NEXT PAGE

Kenneth Hahn, California  
John Klein, New York  
Frank Francois, Maryland  
Shannon Patterson, California  
James Scott, Virginia

Councilmember

Phyllis Lamphere, Washington

Township Officials

Wallace F. Gustafson, Minnesota  
Robert Robinson, Michigan

Public Interest Groups

Stephen Farber, National Governors' Conference  
John J. Gunther, U.S. Conference of Mayors  
J. Thomas Cochran, U.S. Conference of Mayors  
Dorothy V. Brodie, U.S. Conference of Mayors  
Richard Cherry, National League of Cities and U.S. Conference of  
Mayors  
Anthony Jones, National League of Cities  
Alan Belas, National League of Cities  
Julie Bingham, National League of Cities  
Elliott Alman, National Association of Counties  
William Welsh, AFSCME  
James Grogan, New Jersey Building Trade  
Ronald Breslow, New Jersey Building Trade  
Ron Brown, National Urban League  
Dorothy Height, National Council of Negro Women  
Carl Holeman, Urban Coalition  
Joseph Lowery, SCLC  
Clarence Mitchell, NAACP  
William Pollard  
Leon, Sullivan, OIC  
Lynette Taylor, Delta Sigma Theta  
Eddie Williams, Joint Center for Political Studies

Department of Commerce Staff

Jerry J. Jasinowski  
Andrew Manatos  
Lucy A. Falcone  
Robert T. Hall  
Sidney Harman  
George T. Karras

Department of Treasury Staff

Gene Godley

Department of Labor Staff

Ernie Green  
Paul Jensen

FALLOWS TALKING POINTS

THE WHITE HOUSE  
WASHINGTON

May 13, 1977

Stu Eizenstat  
Jack Watson  
Frank Moore

For your information, the attached  
message from the President was  
sent to Secretary Califano.

Rick Hutcheson

Re: HEW Budget in 1978 Appropriations  
Bill

THE WHITE HOUSE  
WASHINGTON

*to Capi: fano*

ACTION	FYI
	MONDALE
	COSTANZA
<input checked="" type="checkbox"/>	EIZENSTAT
	JORDAN
	LIPSHUTZ
<input checked="" type="checkbox"/>	MOORE
	POWELL
<input checked="" type="checkbox"/>	WATSON

<input type="checkbox"/>	ENROLLED BILL
<input type="checkbox"/>	AGENCY REPORT
<input type="checkbox"/>	CAB DECISION
<input type="checkbox"/>	EXECUTIVE ORDER

Comments due to  
Carp/Huron within  
48 hours; due to  
Staff Secretary  
next day

<input type="checkbox"/>	FOR STAFFING
<input type="checkbox"/>	FOR INFORMATION
<input checked="" type="checkbox"/>	FROM PRESIDENT'S OUTBOX
<input type="checkbox"/>	LOG IN/TO PRESIDENT TODAY
<input type="checkbox"/>	IMMEDIATE TURNAROUND

<input type="checkbox"/>	ARAGON
<input type="checkbox"/>	BOURNE
<input type="checkbox"/>	BRZEZINSKI
<input type="checkbox"/>	BUTLER
<input type="checkbox"/>	CARP
<input type="checkbox"/>	H. CARTER
<input type="checkbox"/>	CLOUGH
<input type="checkbox"/>	FALLOWS
<input type="checkbox"/>	FIRST LADY
<input type="checkbox"/>	GAMMILL
<input type="checkbox"/>	HARDEN
<input type="checkbox"/>	HOYT
<input type="checkbox"/>	HUTCHESON
<input type="checkbox"/>	JAGODA
<input type="checkbox"/>	KING

<input type="checkbox"/>	KRAFT
<input type="checkbox"/>	LANCE
<input type="checkbox"/>	LINDER
<input type="checkbox"/>	MITCHELL
<input type="checkbox"/>	POSTON
<input type="checkbox"/>	PRESS
<input type="checkbox"/>	B. RAINWATER
<input type="checkbox"/>	SCHLESINGER
<input type="checkbox"/>	SCHNEIDERS
<input type="checkbox"/>	SCHULTZE
<input type="checkbox"/>	SIEGEL
<input type="checkbox"/>	SMITH
<input type="checkbox"/>	STRAUSS
<input type="checkbox"/>	WELLS
<input type="checkbox"/>	VOORDE

THE WHITE HOUSE  
WASHINGTON

5-13-77

To Joe Califano

Do what you can to  
reduce over-expansion of  
our HEW budget in  
1978 Appropriations Bill.  
Stick to our proposals.

J

Date: March 9, 1977

MEMORANDUM

FOR ACTION:

The Vice President  
Stu Eizenstat  
Jack Watson

FOR INFORMATION:

Hamilton Jordan  
Bob Lipshutz  
Frank Moore  
Jody Powell

FROM: Rick Hutcheson, Staff Secretary

SUBJECT: Charles Warren memo 3/8/77 re Tuna-Porpoise  
Controversy.

YOUR RESPONSE MUST BE DELIVERED  
TO THE STAFF SECRETARY BY:

TIME: 11:00 A.M.

DAY: Friday

DATE: March 11, 1977

ACTION REQUESTED:

☒ Your comments

Other:

STAFF RESPONSE:

☐ I concur.

Please note other comments below:

☒ No comment

*mmk*

**PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.**

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately. (Telephone, 7052)



THE WHITE HOUSE  
WASHINGTON

May 13, 1977

Stu Eizenstat -

The attached was returned in  
the President's outbox. It is  
forwarded to you for appropriate  
handling.

Rick Hutcheson

cc: Jack Watson  
Charles Warren  
Bert Lance  
Frank Moore

Re: Tuna/Porpoise Controversy

THE WHITE HOUSE  
WASHINGTON

Mr. President:

Jack Watson concurs.

Rick

THE PRESIDENT HAS SEEN.

THE WHITE HOUSE  
WASHINGTON

MAY 12, 1977

MEMORANDUM FOR THE PRESIDENT  
FROM STU EIZENSTAT *Stu*  
SUBJECT: Tuna/porpoise Controversy

For three months, industry and environmental groups have met with the Administration and Congress in an unsuccessful effort to resolve the tuna/porpoise controversy. Tentative agreements have been reached, only to be rejected by one party or another. Regulations have been delayed by a series of court suits and the groups have become polarized.

At the request of industry, Secretary Kreps clarified the regulations, thereby enabling fishing on porpoise. Over 15,000 tuna fishermen remain in port, however, seeking amendments to the Marine Mammal Protection Act. This deadlock has resulted in over 3,000 layoffs of cannery workers in Southern California and Puerto Rico.

Chairman Murphy (House Merchant Marine Committee) has introduced legislation requested by the industry and hearings are scheduled for tomorrow. He plans to mark-up the bill Tuesday. Senator Cranston has not introduced legislation and is still attempting to seek a compromise between industry and environmental groups.

The Council on Environmental Quality, Commerce and State Departments have drafted an Administration bill revising the Act to provide more realistic goals and strengthened enforcement. It is a compromise bill which all agencies support. The agencies believe an Administration bill is necessary because the Murphy bill: (1) fails to provide for a long-term program with adequate flexibility and discretion; (2) authorizes more porpoise to be killed than can be justified on biological grounds; and (3) does not provide for improved enforcement mechanisms. Administration leadership is needed to get people back to work and avoid periodic crises and "quick fix" legislation. Industry will oppose the draft Administration bill, but most environmental groups will support.

**Electrostatic Copy Made  
for Preservation Purposes**

The proposed bill clarifies the present goal of decreasing porpoise mortality to "insignificant levels approaching zero" by requiring a 50% reduction in porpoise mortality by 1980, and a 50% reduction every two years thereafter. If for extraordinary reasons, these requirements cannot be achieved, the Secretary of Commerce is authorized to change them. This change was requested by Secretary Kreps to provide her with needed administrative flexibility.

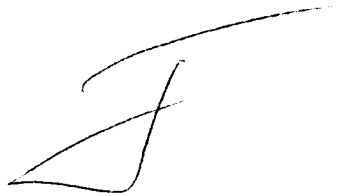
The bill would also allow a small increase in porpoise mortality this year, require observers on all boats, authorize a sliding scale fee system to encourage improved fishing methods, restrict the transfer of U. S. vessels to foreign flag, and strengthen research. A more detailed summary of the bill is provided in the attached memorandum from the Council on Environmental Quality.

If you have no objections we intend to propose amendments to the Murphy bill to make it conform to ours, and to seek introduction of our bill in the Senate.

Our Congressional Relations staff agrees with this strategy.

☒ APPROVE ☐ DISAPPROVE ☐ OTHER

Attachment



**Electrostatic Copy Made  
for Preservation Purposes**

EXECUTIVE OFFICE OF THE PRESIDENT  
COUNCIL ON ENVIRONMENTAL QUALITY  
722 JACKSON PLACE, N. W.  
WASHINGTON, D. C. 20006

May 12, 1977

MEMORANDUM FOR THE PRESIDENT

FOR YOUR INFORMATION

FROM: Charles Warren *QW*  
Marion Edey *ME*  
Gus Speth

SUBJECT: Administration Bill on Tuna/Porpoise Controversy

The House Merchant Marine and Fisheries Committee will hold hearings on the Marine Mammal Protection Act on Friday, May 13, and be marking up a bill Tuesday, May 17. Officials from NOAA, CEQ, and the Marine Mammal Commission have drafted an Administration bill which gives short term relief to industry but would strengthen enforcement of the Act in the long run. CEQ has approved the bill because of the need for inter-agency agreement to allow the Administration to move quickly on the issue, although we have some concern about how the provisions on depleted species and future quotas will be implemented. For background information see next page.

Major Provisions in the Administration Bill are:

Observers and Permit Fees. Observers would be placed on every tuna vessel throughout the year 1978 to monitor fishing activities. Thereafter, observers would be removed from boats where skippers prove to be reliable. Such a program would cost from \$4 to \$5 million the first year, and would be paid for by the industry through a discretionary system of permit fees, set on a sliding scale to give each skipper an incentive to reduce the porpoise kill on his ship.

Immediate Quotas. The industry in 1977 would be allowed to kill about 68,000 porpoise altogether (43,000 spotted, 11,200 white bellies, 6500 spinner and 8000 misc.). Current NMFS regulations set a quota of 59,050 porpoise overall.

Future Quotas. The bill requires that the overall quota be reduced by 50% between 1977 and 1980 (which would bring it down to about 34,000 animals) and be cut another 50% every two years thereafter. However, the Commerce Department has discretion to relax this standard if the industry can prove that (1) they are using the best available technology and due care and (2) even so, they cannot meet the statutory quotas without suffering major and lasting economic disruption. We think any relief from the statutory standards should also be contingent on serious industry efforts to develop new technology, but this is not explicit in the bill.

Depleted Species. The bill retains general language protecting depleted species, with a specific exemption for the eastern spinner porpoise. The Commerce Department has discretion to allow the killing of up to 6500 eastern spinners annually through 1981, provided that the population can recover by that date. This will hurt the U.S. bargaining position at the International Whaling Commission, since the U.S. is urging that other nations adopt stricter standards for the killing of depleted species of whales than we are willing to

impose for the porpoise. But some relief on eastern spinners is essential to passage of a bill. The problem will be less severe if Commerce later decides not to set the quota this high for this long.

Foreign Vessel Transfers. The bill prohibits the transfer of tuna vessels to foreign flags unless the owners (1) agree to allow observers on their boat and (2) post a sizable performance bond sufficient to insure continued compliance with U.S. standards under the Marine Mammal Protection Act. This provision is essential to effective enforcement of the law.

Research Vessel. The industry will supply one tuna vessel full time for research to reduce porpoise mortality.

#### Factual Background

Techniques are now available that could drastically reduce porpoise kill. An experimental vessel under government supervision was so successful that if all skippers did as well, they would kill only 10,000 porpoise annually instead of 100,000 as they do now. In 1976, 9% of the boats killed 45% of the porpoise.

The tuna industry's reports about porpoise mortality are very unreliable. NMFS estimates based on observer reports are six times higher than industry reports from vessels with no observers. NMFS has 37 observers to cover 113 tuna boats, and thus can watch only about a third of the fleet at a time. Boats to be observed are selected at random.

Since the Act was passed in 1972, the populations of three species of porpoise have been significantly reduced, and the eastern spinner has become "depleted." Since the industry cannot avoid killing at least a few spinners, some exemption is necessary. CEQ thinks a 6500 quota for four years is too broad, since the industry managed to kill only 5800 spinners in 1976, but compromised this issue to expedite inter-agency agreement.

The tuna protest has put pressure on the canneries, which are running out of fish. Over 4000 cannery workers have been laid off. The tuna captains correctly calculated that these layoffs would motivate the unions to join their efforts to weaken the Act.

#### Switching to Foreign Flags

Two weeks ago, several tuna captains met with the President of Mexico to discuss the possibility of a massive transfer of the U.S. tuna fleet to Mexico, in order to escape U.S. regulations. Saudi oil interests are also negotiating options to buy U.S. tuna boats. Since 1971, at least 32 tuna vessels have switched to foreign flags, many of them skippered by U.S. citizens.

Present laws may be inadequate to deal with this problem. The Commerce Department can hold up transfers if there is a threat to national security or a deliberate effort to evade the law. But this might be difficult to prove in court. The Defense Department has denied that tuna boats are important to national security, and the captains can point to other economic advantages for switching flags that have nothing to do with porpoise. Under present law, no foreign tuna may be imported without "reasonable proof that it was taken in conformity with U.S. laws." In the past the U.S. has not demanded proof, but new regulations effective June 1 will be stronger.

EXECUTIVE OFFICE OF THE PRESIDENT  
COUNCIL ON ENVIRONMENTAL QUALITY  
722 JACKSON PLACE, N. W.  
WASHINGTON, D. C. 20006

March 9, 1977

MEMORANDUM FOR THE PRESIDENT

FOR YOUR INFORMATION

FROM: The Council on Environmental Quality

SUBJECT: Tuna-Porpoise Controversy

The west coast tuna fleet has interrupted its season. Most of the 110 ships and 1500 fishermen have returned to port, and about 200 fishermen and their wives have come to Washington to protest against provisions in the Marine Mammal Protection Act. This is a grandstand play because under international fishing rights, such vessels would be returning to port anyway. The fishermen have nonetheless caught the attention of the news media. The following information should be helpful to the President if he is asked to comment.

Legal Background

The "immediate goal" of the Marine Mammal Protection Act is to reduce the incidental killing of marine mammals during commercial fishing operations to "insignificant levels approaching zero." Yet since the Act was passed in 1972, tuna fishermen have killed almost 800,000 porpoises. The populations of at least three species have been significantly reduced, and the eastern spinner porpoise has become "depleted" under the terms of the Act. The Act prohibits any killing whatever of a species that has become "depleted".

After a court suit, the National Marine Fisheries Service (NMFS) issued new regulations on February 24, 1977 that prohibited the killing of any eastern spinners, and required that last year's porpoise kill of over 100,000 be reduced to 59,050.

Factual Background

Techniques are available that could reduce porpoise kill by as much as 90%. Vessels using the best methods under government supervision were so successful that if all skippers had achieved similar results, only 10,000 porpoises would be killed each year instead of 100,000. In 1976, 9% of the boats killed 45% of the porpoises. The tuna industry's own reports about porpoise mortality are very unreliable; NMFS estimates based on observer reports are now six times higher than industry reports from vessels with no observers.

The new regulations cannot be fully enforced unless a government observer accompanies each tuna boat setting its nets around porpoise. Such a program would cost from \$4 to \$5 million a year, and could be paid for by the industry through a system of permit fees, set on a sliding scale to give each skipper an incentive to reduce the porpoise kill on his ship. However, even if a sincere effort is made to protect spinners, a few will inevitably be killed.

## Tuna Industry Response

Industry representatives claim they will suffer economic losses unless they are authorized to kill 96,000 porpoises this year, including 6,500 eastern spinners. So far they have failed to substantiate their claims.

The tuna captains have threatened to transfer their boats to foreign countries to escape U.S. regulations. There are now about 110 U.S. tuna boats killing porpoises, and 20 to 30 more such vessels operating under foreign flags, many of them skippered by U.S. citizens. Present laws may be inadequate to deal with this problem. The Commerce Department can delay transfers by claiming a threat to national security, but this could be difficult to prove in court. The use of foreign flags could be discouraged by requiring owner to post a sizable bond to insure continued compliance with U.S. regulations and observer programs.

Under present law, no foreign tuna may be imported without "reasonable proof" that it was taken in conformity with U.S. laws. In practice, the U.S. has asked only for a certificate, saying in effect that it would trust the foreign vessels.

## Legislation

If the Administration decides to draft new legislation, it should be broad enough to deal with the problems outlined above, not a mere quick fix for the industry. Some of the above goals may also be achievable through a broader interpretation and better enforcement of existing law. Any relaxation on the killing of depleted species should apply only to spinners on a temporary basis. NOAA, CEQ, OMB and the Marine Mammal Commission are in consultation and are preparing more specific options and recommendations.

Respectfully submitted,

COUNCIL ON ENVIRONMENTAL QUALITY

By



Gus Speth, Member-Designate



THE WHITE HOUSE  
WASHINGTON

Date: March 14, 1977

MEMORANDUM

FOR ACTION:

The Vice President  
Stu Eizenstat  
Jack Watson  
Bert Lance

FOR INFORMATION: Hamilton Jordan  
Bob Lipshutz  
Frank Moore  
Jody Powell  
Bob Linder

FROM: Rick Hutcheson, Staff Secretary

SUBJECT: Charles Warren memo 3/8/77 re Tuna-Porpoise  
Controversy.

YOUR RESPONSE MUST BE DELIVERED  
TO THE STAFF SECRETARY BY:

TIME: 12:00 NOON.

DAY: Wednesday

DATE: March 16, 1977

ACTION REQUESTED:

☒ Your comments  
Other: \_\_\_\_\_

STAFF RESPONSE:

☐ I concur.

☐ No comment.

Please note other comments below:

*Held for DOC staffing  
per Eizenstat request*

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately. (Telephone, 7052)

THE WHITE HOUSE

WASHINGTON

March 11, 1977

MEMORANDUM FOR

THE PRESIDENT

FROM

STU EIZENSTAT *Stu*  
DAN BEARD

SUBJECT

Warren Memo

Attached is a longer memorandum from Charles Warren giving background on the tuna/porpoise situation and proposing a legislative solution. I strongly support his proposal.

The key elements of his legislation include:

- A limited taking of Eastern spinner porpoise (a threatened species) for two years with assurances that it will be able to recover.
- Improved enforcement program for domestic vessels, and sanctions and enforcement against importation of fish products from foreign nations which violate U.S. marine mammal protection standards.
- A sliding scale permit fee system which will finance the improved enforcement program and provide economic incentives to fishermen to reduce their porpoise kill.

I especially concur with his recommendation for the use of economic incentives, rather than rigid rules, to enforce the Marine Mammal Protection Act. The present regulatory scheme has been inflexible and has created an impasse between environmental groups and fishermen. The proposed legislation will ensure protection of threatened species and encourage fishermen to take action to cut their take of porpoise through individual initiative.

Administration support for a legislative solution is essential. Fishermen have refused to go out under present regulations and canneries have been laying off workers. Unless an Administration bill is submitted, chances for passage of balanced legislation protecting marine mammals and the tuna industry would be doubtful. Most environmental groups will support.

I recommend that before you make a final decision that the Department of Commerce, which is the lead agency on this issue, react to Mr. Warren's memo.

Date: March 9, 1977

MEMORANDUM

on

FOR ACTION:

The Vice President  
Stu Eizenstat  
Jack Watson

FOR INFORMATION:

Hamilton Jordan  
Bob Lipshutz  
Frank Moore  
Jody Powell

175

XC Best  
Kitty  
Don Beard

FROM: Rick Hutcheson, Staff Secretary

SUBJECT: Charles Warren memo 3/8/77 re Tuna-Porpoise  
Controversy.

YOUR RESPONSE MUST BE DELIVERED  
TO THE STAFF SECRETARY BY:

TIME: 11:00 A.M.

DAY: Friday

DATE: March 11, 1977

ACTION REQUESTED:

☒ Your comments

Other:

STAFF RESPONSE:

☐ I concur.

☐ No comment.

Please note other comments below:

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately. (Telephone, 7052)

EXECUTIVE OFFICE OF THE PRESIDENT  
COUNCIL ON ENVIRONMENTAL QUALITY  
722 JACKSON PLACE, N. W.  
WASHINGTON, D. C. 20006

March 8, 1977

MEMORANDUM FOR THE PRESIDENT

FROM: The Council on Environmental Quality  
SUBJECT: Tuna-Porpoise Controversy

The west coast tuna fleet has interrupted its season. At half masts the ships (approximately 110 vessels and 1500 fishermen) have returned to port, and, reportedly the fishermen are en route to Washington to protest the provisions of the Marine Mammal Protection Act and regulations issued pursuant thereto. This is a grandstand play because under international fishing rights, such vessels would be returning anyway.

LEGAL BACKGROUND

The "immediate goal" of the Marine Mammal Protection Act is to reduce the incidental killing of marine mammals during commercial fishing operations to "insignificant levels approaching zero." Yet since the Act was passed in 1972, tuna fishermen have killed almost 800,000 porpoises. The populations of three species have been significantly reduced, and one of these, the eastern spinner porpoise, is at only half its former size, causing it to become "depleted" under the terms of the Act. The Act prohibits any killing whatever of a species that is "depleted".

On February 24, 1977, the National Marine Fisheries Service (NMFS) issued new regulations under the Act, that prohibited the killing of any eastern spinners, and required that last year's porpoise kill of over 100,000 be reduced to 59,050. The Court of Appeals (Washington, D.C.) has issued an injunction prohibiting the killing of any porpoise until new permits are issued pursuant to the new regulations.

#### FACTUAL BACKGROUND

Techniques are available and have been demonstrated, whereby under ideal conditions the porpoise kill can be reduced by as much as 90%. Vessels using the best methods under government supervision were so successful that if all skippers had achieved similar results, only 10,000 porpoises would be killed each year instead of 100,000. In 1976, 9% of the boats killed 45% of the porpoises.

There is some evidence the "kill" reports understate the actual number killed. Quotas cannot be fully enforced unless a government observer accompanies each tuna boat setting its nets around porpoise. Such a program would cost from \$4 to \$5 million a year. Such observers would also educate the skippers on the most effective techniques. However, even if a sincere effort is made to avoid setting nets around spinners, a few would inevitably be killed. About 20% of the yellowfin tuna catch caught "on porpoise" involves netting eastern spinners, and most of these are killed early in the year.

#### TUNA INDUSTRY RESPONSE

Industry representatives claim they will suffer economic losses unless they are authorized to kill 96,000 porpoise this year, including 6,500 eastern spinners. Up to now, they have failed to supply evidence to substantiate these claims.

The tuna captains have threatened to transfer their boats to foreign countries to escape the U.S. regulations under the Marine Mammal Protection Act and other laws. There are now about 110 U.S. tuna vessels killing porpoise, and about 20 to 30 more such vessels operating under foreign flags. Many of these are manned and skippered by U.S. citizens. Present laws may be inadequate to prevent the use of foreign flags to evade the U.S. standards. The Commerce Department can delay transfers by claiming a threat to national security, but this would be difficult to prove and could be challenged in court.

On Tuesday, March 8, the wives of about 100 fishermen will be lobbying the Congress in an effort to dramatize their case. If they generate press coverage, it is important the President not say anything which would restrict his options later.

#### PENDING LEGISLATION

H.R. 1383 by Rep. Young (D-Fla.) would prohibit all incidental killing of marine mammals. Rep. McCloskey (R-Cal.) also seems interested in very tough legislation.

S. 373 by Senator Hayakawa (R-Cal.) would weaken the goal of the Act, and provide for a general relaxation of the prohibition against the killing of any species that is depleted. Thus, it uses a specific problem as an excuse to weaken the Act in general. It also fails to fully address the need for more effective enforcement against both foreign and domestic vessels, although it would strengthen the observer program.

A proposed bill drafted by industry but not yet submitted would eliminate all mandatory requirements to reduce killing and authorize the Secretary to impose only those gear and fishing techniques defined as "practical".

#### RECOMMENDED ACTION

The Administration should announce it is preparing legislation on the tuna-porpoise controversy. The Administration bill should strengthen the Act, but allow the tuna fleet to fish. This legislation should amend the Act to authorize the killing of no more than 5,000 eastern spinner porpoise annually for the next two years, in a manner that will allow the population of this species to recover.

#### RECOMMENDED LEGISLATION

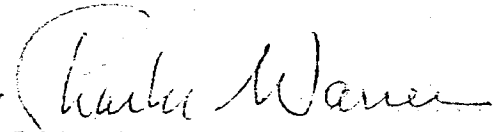
The Secretary of Commerce should be authorized to issue permits allowing the killing of no more than 5,000 eastern spinner porpoises each year until December 31, 1978, subject to all of the following conditions:

- The Secretary must be sure that any authorized killing will allow for an annual increase in the population of eastern spinner porpoise.
- The quotas for killing each other species of porpoise must be reduced significantly each year until we achieve the goal of "insignificant mortality levels approaching zero."
- A government observer must accompany every tuna fishing voyage on vessels over 400 tons that will be setting on porpoise. These observers should be rotated to keep them honest and their reports to NMFS should be confidential.
- A sliding scale of permit fees should be established to recover the costs of observers and create an incentive for the skippers to reduce the porpoise kill.

- More federal money and a vessel supplied by industry for research.
- Stronger sanctions and enforcement against the importation of fish products from foreign nations that are fishing in violation of U.S. standards.
- Sanctions and restrictions to prevent U.S. vessels from switching to foreign flags, and require that owners seeking to transfer their vessels post a sizeable bond to insure continued compliance with U.S. regulations and observer programs.

Respectfully submitted,

COUNCIL ON ENVIRONMENTAL QUALITY

By   
\_\_\_\_\_  
CHARLES WARREN  
Chairman-Designate

THE WHITE HOUSE  
WASHINGTON

Date: March 9, 1977

MEMORANDUM *mail - record*

FOR ACTION:

The Vice President  
Stu Eizenstat  
Jack Watson

FOR INFORMATION:

Hamilton Jordan  
Bob Lipshutz - *NC*  
Frank Moore  
Jody Powell  
Bob Linder

FROM: Rick Hutcheson, Staff Secretary

SUBJECT: Charles Warren memo 3/8/77 re Tuna-Porpoise  
Controversy.

YOUR RESPONSE MUST BE DELIVERED  
TO THE STAFF SECRETARY BY:

TIME: 11:00 A.M.

DAY: Friday

DATE: March 11, 1977

ACTION REQUESTED:

☒ Your comments

Other:

STAFF RESPONSE:

☐ I concur.

☐ No comment.

Please note other comments below:

*Hold for shorter  
version due from  
Warren  
Raf 3-12-77*

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately. (Telephone, 7052)



EXECUTIVE OFFICE OF THE PRESIDENT  
COUNCIL ON ENVIRONMENTAL QUALITY  
722 JACKSON PLACE, N. W.  
WASHINGTON, D. C. 20006

March 8, 1977

MEMORANDUM FOR THE PRESIDENT

FROM: The Council on Environmental Quality  
SUBJECT: Tuna-Porpoise Controversy

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A proposed bill drafted by industry but not yet submitted would eliminate all mandatory requirements to reduce killing and authorize the Secretary to impose only those gear and fishing techniques defined as "practical".

#### RECOMMENDED ACTION

The Administration should announce it is preparing legislation on the tuna-porpoise controversy. The Administration bill should strengthen the Act, but allow the tuna fleet to fish. This legislation should amend the Act to authorize the killing of no more than 5,000 eastern spinner porpoise annually for the next two years, in a manner that will allow the population of this species to recover.

#### RECOMMENDED LEGISLATION

The Secretary of Commerce should be authorized to issue permits allowing the killing of no more than 5,000 eastern spinner porpoises each year until December 31, 1978, subject to all of the following conditions:

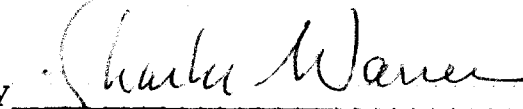
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- The quotas for killing each other species of porpoise must be reduced significantly each year until we achieve the goal of "insignificant mortality levels approaching zero."
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- More federal money and a vessel supplied by industry for research.
- Stronger sanctions and enforcement against the importation of fish products from foreign nations that are fishing in violation of U.S. standards.
- Sanctions and restrictions to prevent U.S. vessels from switching to foreign flags, and require that owners seeking to transfer their vessels post a sizeable bond to insure continued compliance with U.S. regulations and observer programs.

Respectfully submitted,

COUNCIL ON ENVIRONMENTAL QUALITY

By



CHARLES WARREN  
Chairman-Designate

Date: March 9, 1977 49

MEMORANDUM

FOR ACTION:

The Vice President  
Stu Eizenstat  
Jack Watson

FOR INFORMATION:

Hamilton Jordan  
Bob Lipshutz  
Frank Moore  
Jody Powell

FROM: Rick Hutcheson, Staff Secretary

SUBJECT: Charles Warren memo 3/8/77 re Tuna-Porpoise Controversy.

*MAKE*

YOUR RESPONSE MUST BE DELIVERED  
TO THE STAFF SECRETARY BY:

TIME: 11:00 A.M.

DAY: Friday

DATE: March 11, 1977

ACTION REQUESTED:

☒ Your comments

Other:

STAFF RESPONSE:

☒ I concur.

☐ No comment.

Please note other comments below:

The recommended legislative parameter is consistent with our commitment to environmentalists & does not place undue hardships on fishing industry that will result in loss of jobs. Politically, it is an excellent approach.  
*Siegel.*

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately. (Telephone, 7052)

EXECUTIVE OFFICE OF THE PRESIDENT  
COUNCIL ON ENVIRONMENTAL QUALITY  
722 JACKSON PLACE, N. W.  
WASHINGTON, D. C. 20006

March 8, 1977

MEMORANDUM FOR THE PRESIDENT

FROM: The Council on Environmental Quality  
SUBJECT: Tuna-Porpoise Controversy

The west coast tuna fleet has interrupted its season. At half masts the ships (approximately 110 vessels and 1500 fishermen) have returned to port, and, reportedly the fishermen are en route to Washington to protest the provisions of the Marine Mammal Protection Act and regulations issued pursuant thereto. This is a grandstand play because under international fishing rights, such vessels would be returning anyway.

LEGAL BACKGROUND

The "immediate goal" of the Marine Mammal Protection Act is to reduce the incidental killing of marine mammals during commercial fishing operations to "insignificant levels approaching zero." Yet since the Act was passed in 1972, tuna fishermen have killed almost 800,000 porpoises. The populations of three species have been significantly reduced, and one of these, the eastern spinner porpoise, is at only half its former size, causing it to become "depleted" under the terms of the Act. The Act prohibits any killing whatever of a species that is "depleted".

On February 24, 1977, the National Marine Fisheries Service (NMFS) issued new regulations under the Act, that prohibited the killing of any eastern spinners, and required that last year's porpoise kill of over 100,000 be reduced to 59,050. The Court of Appeals (Washington, D.C.) has issued an injunction prohibiting the killing of any porpoise until new permits are issued pursuant to the new regulations.

#### FACTUAL BACKGROUND

Techniques are available and have been demonstrated, whereby under ideal conditions the porpoise kill can be reduced by as much as 90%. Vessels using the best methods under government supervision were so successful that if all skippers had achieved similar results, only 10,000 porpoises would be killed each year instead of 100,000. In 1976, 9% of the boats killed 45% of the porpoises.

There is some evidence the "kill" reports understate the actual number killed. Quotas cannot be fully enforced unless a government observer accompanies each tuna boat setting its nets around porpoise. Such a program would cost from \$4 to \$5 million a year. Such observers would also educate the skippers on the most effective techniques. However, even if a sincere effort is made to avoid setting nets around spinners, a few would inevitably be killed. About 20% of the yellowfin tuna catch caught "on porpoise" involves netting eastern spinners, and most of these are killed early in the year.

#### TUNA INDUSTRY RESPONSE

Industry representatives claim they will suffer economic losses unless they are authorized to kill 96,000 porpoise this year, including 6,500 eastern spinners. Up to now, they have failed to supply evidence to substantiate these claims.

The tuna captains have threatened to transfer their boats to foreign countries to escape the U.S. regulations under the Marine Mammal Protection Act and other laws. There are now about 110 U.S. tuna vessels killing porpoise, and about 20 to 30 more such vessels operating under foreign flags. Many of these are manned and skippered by U.S. citizens. Present laws may be inadequate to prevent the use of foreign flags to evade the U.S. standards. The Commerce Department can delay transfers by claiming a threat to national security, but this would be difficult to prove and could be challenged in court.

On Tuesday, March 8, the wives of about 100 fishermen will be lobbying the Congress in an effort to dramatize their case. If they generate press coverage, it is important the President not say anything which would restrict his options later.

#### PENDING LEGISLATION

H.R. 1383 by Rep. Young (D-Fla.) would prohibit all incidental killing of marine mammals. Rep. McCloskey (R-Cal.) also seems interested in very tough legislation.

S. 373 by Senator Hayakawa (R-Cal.) would weaken the goal of the Act, and provide for a general relaxation of the prohibition against the killing of any species that is depleted. Thus, it uses a specific problem as an excuse to weaken the Act in general. It also fails to fully address the need for more effective enforcement against both foreign and domestic vessels, although it would strengthen the observer program.

A proposed bill drafted by industry but not yet submitted would eliminate all mandatory requirements to reduce killing and authorize the Secretary to impose only those gear and fishing techniques defined as "practical".

#### RECOMMENDED ACTION

The Administration should announce it is preparing legislation on the tuna-porpoise controversy. The Administration bill should strengthen the Act, but allow the tuna fleet to fish. This legislation should amend the Act to authorize the killing of no more than 5,000 eastern spinner porpoise annually for the next two years, in a manner that will allow the population of this species to recover.

#### RECOMMENDED LEGISLATION

The Secretary of Commerce should be authorized to issue permits allowing the killing of no more than 5,000 eastern spinner porpoises each year until December 31, 1978, subject to all of the following conditions:

- The Secretary must be sure that any authorized killing will allow for an annual increase in the population of eastern spinner porpoise.
- The quotas for killing each other species of porpoise must be reduced significantly each year until we achieve the goal of "insignificant mortality levels approaching zero."
- A government observer must accompany every tuna fishing voyage on vessels over 400 tons that will be setting on porpoise. These observers should be rotated to keep them honest and their reports to NMFS should be confidential.
- A sliding scale of permit fees should be established to recover the costs of observers and create an incentive for the skippers to reduce the porpoise kill.

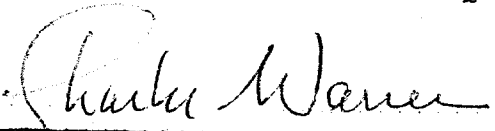


- More federal money and a vessel supplied by industry for research.
- Stronger sanctions and enforcement against the importation of fish products from foreign nations that are fishing in violation of U.S. standards.
- Sanctions and restrictions to prevent U.S. vessels from switching to foreign flags, and require that owners seeking to transfer their vessels post a sizeable bond to insure continued compliance with U.S. regulations and observer programs.

Respectfully submitted,

COUNCIL ON ENVIRONMENTAL QUALITY

By

  
CHARLES WARREN

Chairman-Designate





EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

MAR 16 1977

MEMORANDUM FOR: RICK HUTCHESON  
FROM: DENNIS O. GREEN *DOG*  
SUBJECT: Charles Warren memo 3/8/77 re: Tuna  
Porpoise Controversy

This is in response to your request of March 14, 1977, to Bert Lance, for comments on Mr. Charles Warren's memorandum to the President regarding the Tuna-Porpoise controversy.

The Office of Management and Budget, Department of Commerce, Council on Environmental Quality, Marine Mammal Commission and Department of State have been meeting on this issue and have agreed to submit an options paper to the President by the end of this week. The paper will address the specific issue of what position, if any, the Administration should take in the Tuna-Porpoise controversy. It will also list the recommendations of each of the above agencies.

Because this is a very complex issue, and we believe that the President should have the recommendations of all of the above agencies before him when he makes his decision, the Office of Management and Budget recommends that the Council on Environmental Quality paper be held until the above options paper is presented to the President.

Date: March 14, 1977

MEMORANDUM

CB 131  
# 226

FOR ACTION:

The Vice President  
Stu Eizenstat  
Jack Watson  
Bert Lance ✓

FOR INFORMATION: Hamilton Jordan  
Bob Lipshutz  
Frank Moore  
Jody Powell  
Bob Linder

FROM: Rick Hutcheson, Staff Secretary

SUBJECT: Charles Warren memo 3/8/77 re Tuna-Porpoise  
Controversy.

YOUR RESPONSE MUST BE DELIVERED  
TO THE STAFF SECRETARY BY:

TIME: 12:00 NOON.

DAY: Wednesday

DATE: March 16, 1977

ACTION REQUESTED:

☒ Your comments

Other:

STAFF RESPONSE:

☐ I concur.

☐ No comment.

Please note other comments below:

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately. (Telephone, 7052)